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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

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10 CHARLES V. MCCLAIN III, Pro Se, and
11 all others similarly situated,

12 Plaintiff,

13 v.

14 THE BOEING COMPANY, et al.,

15 Defendants.

16 CASE NO. C08-613RSM

17 ORDER ON DEFENDANTS'
18 MOTIONS TO DISMISS

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20 This matter is before the Court for consideration of motions to dismiss and for summary
21 judgment filed by defendants The Boeing Company (“Boeing”) and International Association of
22 Machinists, District Lodge 751 (“Union”). Dkt. # 71, 72. Plaintiff has not responded to the
23 motions in any way. Indeed, he has not participated in this case at all since October 15, 2008,
24 apart from filing a motion for recusal of the undersigned, which motion was denied by Chief
Judge Marsha J. Pechman on March 20, 2012. Dkt. # 82. It appears that he has abandoned this
litigation.

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26 Plaintiff originally filed this action in state court, presenting state law claims over which
27 the Court declined supplemental jurisdiction in an earlier case, McClain v. Boeing, C07-
28 567RSM. He also purported to assert a claim under the Racketeering Influenced and Corrupt
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1 Organizations Act (“RICO”), 18 U.S.C. § 1961 *et seq.* Defendants removed the case to this
2 Court on the basis of the RICO claim, and it was subsequently stayed pending the appeal in C07-
3 567RSM. In that appeal, the Ninth Circuit Court of Appeals vacated that portion of the Court’s
4 Order declining supplemental jurisdiction, and remanded for consideration as to whether the
5 state law claims are preempted by federal law. Upon motions for summary judgment filed by
6 defendants Boeing and the Union in C07-567RSM, that case has been dismissed. See, Order on
7 Motions for Summary Judgment, C07-567RSM, Dkt. # 149. The state law claims presented in
8 this case have thus already been considered and found without merit and/or preempted by federal
9 law.

10 Pursuant to Local Rule CR 7(b)(2), the Court deems plaintiff's failure to respond as an
11 admission that the motions have merit. Defendant Union's motion to dismiss state law claims
12 (Dkt. # 71) and defendant Boeing's motion for summary judgment on state law claims (Dkt. #
13 72) are accordingly GRANTED, and these claims are DISMISSED.

14 The Court notes that the Union’s motion to dismiss did not include plaintiff’s purported
15 RICO claims against the Union and its agent, Jackie Boschek. However, the Court deems
16 plaintiff’s failure to respond to the two motions to dismiss state law claims, and his lack of
17 participation in this case, as indicators of his abandonment of this case. Accordingly, plaintiff is
18 ORDERED TO SHOW CAUSE, within two weeks of the date of this Order, why all remaining
19 claims should not be dismissed for failure to prosecute.

20 DATED May 14, 2012.



RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE